



SO ORDERED.

SIGNED this 16 day of February, 2005.

A handwritten signature in black ink, appearing to read "REN", is written over a horizontal line.

**ROBERT E. NUGENT
UNITED STATES CHIEF BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

GOLD IN GRAIN, INC.,

Debtor.

GOLD IN GRAIN, INC.,

Plaintiff,

v.

**MARK A. FAULKNER, d/b/a
FAULKNER REAL ESTATE**

Defendant.

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)
) **Case No. 04-10202**
) **Chapter 11**
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) **Adversary No. 04-5100**
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JUDGMENT ON DECISION

Plaintiff Gold in Grain, Inc. seeks the turnover of auction proceeds from the sale of its property

being held by the defendant auctioneer Mark Faulkner, d/b/a Faulkner Real Estate.

The Court concludes that plaintiff's agent Darren Wilkey lacked actual or apparent authority to authorize the sale of Gold in Grain's assets. Because defendant had notice that Wilkey was acting beyond the scope of his authority, the sale of Gold in Grain's assets was not binding upon plaintiff. Judgment is entered against defendant Mark Faulkner ordering TURNOVER of sale proceeds in the amount of \$3,650 to the estate.

Defendant's counterclaim for his sales commission is DENIED; defendant has failed to prove that he procured ready, willing and able buyers of the real estate and minerals. Judgment is entered for plaintiff on defendant's counterclaim.

IT IS SO ORDERED.

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